

REPORT BY THE AUDITOR GENERAL OF CALIFORNIA

**The Department of Parks and Recreation
Can Improve Aspects of the California
Off-Highway Motor Vehicle Recreation Program**

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Off-Highway Motor Vehicle Recreation Program**

P-776, December 1990

**Office of the Auditor General
California**



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P-776

Honorable Ken Maddy, Vice Chairman
Members, Joint Legislative Audit Committee
State Capitol, Room 305
Sacramento, California 95814

Dear Mr. Vice Chairman and Members:

The Office of the Auditor General presents its report concerning the Department of Parks and Recreation's (department) implementation of the Off-Highway Motor Vehicle Recreation Act of 1988. The report indicates that the department can improve its enforcement of the registration requirement for off-highway motor vehicles at the State's most popular facility for these vehicles. The report also shows that the department has not promptly met some program requirements. Finally, the report shows that the department needs to ensure that it maintains accurate records of all expenditures for conservation and enforcement activities.

We conducted this audit to comply with Chapter 1027, Statutes of 1987.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt R. Sjoberg".

KURT R. SJOBERG
Auditor General (Acting)

Table of Contents

Summary	S-1	
Introduction	1	
Audit Results		
Chapter 1	The Department of Parks and Recreation Can Improve Its Enforcement of the Registration Law for Off-Highway Motor Vehicles	9
	Recommendation	15
Chapter 2	The Department of Parks and Recreation Has Not Met Mandated Deadlines in Performing and Reporting on Some Requirements of the California Off-Highway Motor Vehicle Recreation Program	17
	Recommendation	22
Chapter 3	The Department of Parks and Recreation Did Not Maintain Accurate Records of Some Expenditures for Conservation and Enforcement Activities	25
	Recommendation	28

Appendix	Composition of the Off-Highway Motor Vehicle Recreation Commission	31
Response to the Audit	The Resources Agency	33

Summary

Results in Brief

The California Off-Highway Motor Vehicle Recreation Program (program), under the administration of the Department of Parks and Recreation (department), manages the recreational activities of off-highway motor vehicles in the State. During our review of the program, we identified the following conditions:

- At the State's most popular facility for off-highway motor vehicles, the department's procedures for enforcing the registration requirement for these vehicles were not adequate. As a result, unregistered off-highway vehicles were used at this facility. In a survey of this facility, approximately 15 percent of the off-highway vehicles in our sample were unregistered;
- The department's contractor completed a mandated inventory of wildlife populations and habitats more than six months late and will complete the plans for the protection programs for these habitats more than one year after the mandated deadline;
- A guidebook describing the laws and regulations of the program and a report on the adequacy of existing facilities, both mandated by the Legislature, are several years late, and the biennial status report, also mandated by the Legislature, was at least one year late; and
- The department's summary of expenditures for conservation and enforcement activities did not accurately record 5 of 11 of our sample of expenditures made through purchase orders.

Background The Legislature established the program within the department with the intention of providing adequate facilities for recreational motor vehicles while conserving the State's natural resources. The program applies specifically to the use of off-highway motor vehicles on open public lands other than highways. The term "off-highway motor vehicle" includes, but is not limited to, motorcycles, snowmobiles, jeeps, and other vehicles such as dune buggies and all-terrain vehicles.

The department's Division of Off-Highway Motor Vehicle Recreation (division) administers the program, and the Off-Highway Motor Vehicle Recreation Commission (commission) provides policy direction and approves all capital expenditures for the program.

The Off-Highway Motor Vehicle Recreation (OHMVR) Act of 1988 established new requirements for the program, which included adopting a standard for measuring soil erosion, conducting an inventory of wildlife populations for designated areas in the State, and developing protection programs for habitats in these areas. This report provides information on the implementation of these and other provisions of this act.

Off-Highway Registration Enforcement Can Be Improved The department has not ensured that only registered off-highway motor vehicles use its State Vehicular Recreation Areas (SVRAs). The Vehicle Code requires the owners of off-highway vehicles to register these vehicles with the State. The OHMVR Act of 1988 assigned the department the responsibility for enforcing this requirement in areas acquired, maintained, or operated by funds from the Off-Highway Vehicle Fund, which include lands in the State's system for off-highway vehicles. However, in our review of off-highway vehicles at one SVRA, Pismo Dunes, we identified 8 (15 percent) of 54 that were not currently registered. In contrast, we did not find any instances of unregistered vehicles in a sample of 26 at a second SVRA, Hollister Hills, which had essentially the same features. The incidence of unregistered

vehicles at Pismo Dunes can be attributed to at least one factor. While staff at Hollister Hills routinely checked the registration status of off-highway vehicles at the entry gates to the facility, the staff at Pismo Dunes did not always follow this practice.

The chief for the department's division stated that the department does not have a formal policy that requires staff to check the registration status of off-highway motor vehicles when they enter the SVRAs. He added that at some facilities, such as Pismo Dunes, staff generally use other methods, such as checkpoints, to review the registration status of these vehicles. However, we found that Pismo Dunes established only one of these checkpoints on one day in fiscal year 1989-90. A single checkpoint may have been ineffective in identifying unregistered vehicles from among the more than 700,000 visitors at Pismo Dunes in that fiscal year.

The department's enforcement of the registration requirement provides revenues for the program, other state agencies, and the counties. For example, the State collects \$20 for every off-highway motor vehicle registered. From this amount, the department's program receives \$6, the Department of Motor Vehicles receives \$9, the Department of the California Highway Patrol receives \$1, and the counties receive \$4. In addition, the program receives 50 percent of all fines and forfeitures collected for violations of regulations, including the registration requirement, relating to the use of off-highway vehicles. The counties receive the remaining 50 percent. In fiscal year 1988-89, these sources of revenue contributed nearly \$1.2 million to the operation of the program. Therefore, increased compliance resulting from better enforcement of the registration requirement could increase revenues for the program, other state agencies, and the counties.

Mandated Deadlines Not Met in Performing and Reporting on Some Program Requirements

The department has not completed all of the required program tasks and reports promptly. For example, the OHMVR Act of 1988 required the department by July 1, 1989, to conduct an inventory of wildlife populations and their habitats and to prepare a protection program for wildlife habitats for each area in the State's system for off-highway motor vehicles. However, the department's contractor did not complete the inventory until January 1990 and does not expect to complete the plans for the habitat protection programs until early October 1990. Also, a guidebook describing the laws and regulations of the program and a report on the adequacy of existing facilities, both mandated by the Legislature, are several years late, and the biennial status report, also mandated by the Legislature, was at least one year late. Although some of the delays can be attributed to problems with contractors, the department's delays in beginning the projects also contributed to the delays. As a result, the department could not provide special attention to some species of plants and animals that might have been identified by the plans for the protection programs, nor was it able to provide timely information the Legislature might have required for its policy decisions on the program.

Accurate Records Not Maintained of Some Expenditures for Conservation and Enforcement Activities

The department did not maintain accurate records for some expenditures made with funds from the Conservation and Enforcement Services Account (account) for fiscal years 1986 -87 through 1988-89. According to Section 5090.64(a) of the Public Resources Code, the funds from this account shall be expended on lands in the State's system for off-highway motor vehicles only for certain types of conservation and enforcement activities. As part of this requirement, the department must maintain a system that provides effective accounting control over these funds. Although the department properly expended the funds or reserved them for expenditure on these activities for a sample of items we tested, it did not use its system to properly code all expenditures made through purchase orders. According to the chief for the division, the department sometimes did not use the system to record all charges for conservation and

enforcement activities because staff in the division, including staff at the SVRAs, did not always identify with the proper code all expenditures made through purchase orders. Consequently, the department identified and summarized them later, a less reliable method that caused errors in the recording of expenditures for 5 of 11 purchase orders we sampled.

Recommendations

To improve aspects of the Off-Highway Motor Vehicle Recreation Program, the Department of Parks and Recreation should take the following actions:

- Develop procedures that direct staff at the SVRAs to review the registration status of off-highway motor vehicles at the entry gates to these facilities, when feasible, at checkpoints established periodically along trails, and during routine patrols of the facilities;
- Ensure that the department meets mandated deadlines in performing and reporting on all the program's requirements. Specifically, the department and the Off-Highway Motor Vehicle Recreation Commission, when appropriate, should promptly determine whether they are going to issue contracts to accomplish these requirements or whether the department will perform the tasks itself. Furthermore, if the department and the commission award contracts to accomplish these requirements, the department should ensure that contractors complete the work on time; and
- Ensure that staff use the existing code system to specifically identify all purchase orders that represent expenditures for conservation and enforcement activities.

**Agency
Comments** The Secretary for Resources and the Department of Parks and Recreation concur with the report's findings.

Introduction

The Legislature established the California Off-Highway Motor Vehicle Recreation Program (program) within the Department of Parks and Recreation (department) with the intention of providing adequate facilities for recreational vehicles while conserving the natural resources of California. The program applies specifically to the use of off-highway motor vehicles on open public lands other than highways. The term "off-highway motor vehicle" includes, but is not limited to, motorcycles, snowmobiles, jeeps, and other vehicles such as dune buggies and all-terrain vehicles.

The Off-Highway Motor Vehicle Recreation Acts

In 1982, the Legislature found that off-highway motor vehicle recreation was gaining popularity in California and that indiscriminate and uncontrolled use of off-highway motor vehicles might have an adverse effect on the environment. In response to this concern, the Legislature passed the Off-Highway Motor Vehicle Recreation (OHMVR) Act of 1982 to provide adequate facilities for off-highway motor vehicles and to maintain a desirable ecological balance on the program's lands. The Legislature intended for the department to place high priority on promptly implementing the OHMVR program. To accomplish this, the OHMVR Act created the Division of Off-Highway Motor Vehicle Recreation (division) and consolidated within this division all existing off-highway motor vehicle recreation activities carried out by other programs within the department. Under the direction of its deputy director, the division is responsible for the implementation of all aspects of the State's program for off-highway vehicles. Specifically, the division is responsible for the planning, acquisition, development, construction, and conservation

and rehabilitation of lands included in the State's program. In addition, the division is responsible for managing these lands, for enforcing laws regulating the use or equipment of off-highway vehicles in these lands, and for providing appropriate public safety activities.

To establish policy for the division, the OHMVR Act created the Off-Highway Motor Vehicle Recreation Commission (commission). Among its responsibilities, the commission must establish policies to guide the deputy director and the division regarding all aspects of the program. In addition, upon the request of any owner or tenant of lands adjacent to the program's, the commission is responsible for considering alleged adverse effects to these lands from the operation of off-highway motor vehicles and is responsible for recommending to the division measures for preventing these effects and rehabilitating the properties affected. Some of the commission's other responsibilities require it to review the proposed budget of expenditures from the Off-Highway Vehicle Fund and comment to the department's director, to approve all capital expenditures from this fund, and to report biennially to the Legislature, in part, on the status of off-highway vehicle recreation. The Appendix discusses the composition of the commission and how its members are appointed.

The program as established by the OHMVR Act of 1982 was scheduled to remain in effect until January 1, 1988. Subsequently, the Legislature enacted the OHMVR Act of 1988, which effectively reestablished the program until January 1, 1993. The OHMVR Act of 1988 established new requirements for the program. For example, the new act requires commission members to represent one or more of specified groups. The new act also requires the department to adopt standards that measure soil loss, to develop protection programs for habitats, and to monitor the soils and habitats in areas frequented by off-highway motor vehicles, and it authorizes the department to protect certain wilderness lands from damage by erecting physical barriers to prevent their use by off-highway motor vehicles.

In addition, the OHMVR Act of 1988 requires the division to enforce the laws relating to the use of off-highway motor vehicles in

areas funded by the Off-Highway Vehicle Fund and authorizes the division to provide grants to federal, state, and local agencies for enforcing these laws. For example, the act increased the fine for violating the prohibition on operating, transporting, or leaving standing any off-highway vehicle not registered with the State. The fines went from not less than \$25 to not less than \$50 for a first offense and from not less than \$50 to not more than \$250 for every subsequent offense.

**The Program's
Budget and
Funding**

The department's budget for the program in fiscal year 1988-89 was approximately \$19.5 million. The department used approximately \$9 million of this amount on state operations. The department expended the remaining amount, over \$10.5 million, on grants awarded to federal and local agencies and to other entities for projects relating to the use of off-highway motor vehicles.

Two sources of revenues for the program are gasoline tax revenues and registration fees. The gasoline tax revenues are taxes paid on motor vehicle fuel by street and off-highway motor vehicles used for off-highway recreation and for which a refund has not been claimed. The registration fee is the amount paid by the owners of off-highway vehicles to register them with the Department of Motor Vehicles.

**Responsi-
bilities for
Operating
Facilities**

The department's brochure describing the off-highway motor vehicle areas of California lists 107 facilities that offer recreational opportunities for off-highway motor vehicles. The United States Forest Service and the Bureau of Land Management operate 83 of these facilities on properties owned by the federal government. Counties, cities, or other jurisdictions manage an additional 17 facilities.

The department operates the remaining 7 facilities as part of its State Vehicular Recreation Area and Trail System. These facilities, referred to as State Vehicular Recreation Areas (SVRAs),

consist of approximately 55,600 acres located throughout the State as shown on the following chart. The department estimates that more than 1.3 million visitors used these facilities during fiscal year 1988-89.

Chart State Vehicular Recreation Areas



**Prior Report
of the
Office of the
Auditor General
on the
Department**

In 1984, the Office of the Auditor General reviewed the department's implementation of the OHMVR Act of 1982. In this review, we found that the department had established the division according to legislative intent and that it had made appointments to the commission. However, the division had not acquired any new off-highway motor vehicle recreation facilities, and its expansion of existing facilities had been minimal. We also reported that the commission had not yet established policies for guiding the division in implementing the program.

**Scope and
Methodology**

The purpose of this audit was to comply with Section 5090.12 of the Public Resources Code which requires the Office of the Auditor General to prepare and submit to the Legislature on or before January 1, 1991, a performance audit report on the implementation of the OHMVR Act of 1988.

To determine if the department is enforcing the registration requirement for off-highway motor vehicles, we observed the enforcement efforts of the department and grantees of the department at six facilities. Specifically, we visited two of the State's SVRAs and four facilities managed by federal agencies. We selected these federal facilities because they are also required to enforce the State's registration requirements. At each site, we observed the efforts made by staff to review the registration status of off-highway vehicles that entered the facility. We also surveyed a sample of from 7 to 54 visitors at each site to determine if their off-highway vehicles were currently registered with the State.

To determine the extent of the department's efforts to conduct an inventory of wildlife populations and habitats and to design protection programs for them, we reviewed records and correspondence describing these efforts. We were unable to review the data gathered during the inventory because, according to the chief of the division, the contractor is using this information to write the plans for the protection programs.

To determine if the department issued reports mandated by the OHMVR Act of 1988 and other state laws, we obtained copies of reports the department had provided and compared these reports with a list of reports required. To determine the causes for any late reports, we reviewed the contracts for these reports and the department's efforts to administer these contracts.

To determine if the department properly expended and accounted for funds from the Conservation and Enforcement Services Account, we reviewed a sample of 19 expenditures made with funds from this account from fiscal years 1986-87 through 1988-89. Specifically, we traced these expenditures to supporting documentation to determine whether the department properly expended or reserved these funds for conservation and enforcement activities and whether it accurately recorded these expenditures.

As part of our inquiry, we reviewed and verified the department's compliance with several provisions of the OHMVR Act of 1988. Specifically, we observed the department's efforts to repair and maintain trails and boundary fences and to protect sensitive vegetation at two SVRAs. In those areas we observed, we concluded that the department's efforts complied with the OHMVR Act of 1988. Based on the department's records, we also determined that through fiscal year 1988-89, the department has awarded grants to local and federal agencies in the amounts permitted by the OHMVR Act. In addition, the federal agencies we reviewed showed evidence that they were enforcing the registration requirement.

We were unable to verify the department's compliance with the requirement in the OHMVR Act of 1988 for adopting a standard that can be used to measure soil loss. A committee consisting of representatives from various agencies, including the department, has developed a draft of this standard. However, the department plans to hold at least one public meeting before it adopts this standard. As of September 7, 1990, the division planned for the director to approve the standard in January 1991. The OHMVR Act of 1988 mandated that the department adopt it by January 1, 1991.

In analyzing the department's implementation of the OHMVR Act of 1988, we also reviewed its efforts to correct the problems identified in our last report. Specifically, we verified the establishment of 28 policies to guide the program. We also reviewed documentation of land acquisitions for the expansion of off-highway recreational facilities made between January 1, 1984, and July 31, 1990. During this period, the department expended over \$4.9 million to expand the facilities at the SVRAs by over 19,000 acres.

Chapter 1 The Department of Parks and Recreation Can Improve Its Enforcement of the Registration Law for Off-Highway Motor Vehicles

Chapter Summary

The Department of Parks and Recreation (department) has not ensured that only registered off-highway motor vehicles use its State Vehicular Recreation Areas (SVRAs). The Vehicle Code requires the owners of off-highway vehicles to register them with the State. The Off-Highway Motor Vehicle Recreation (OHMVR) Act of 1988 assigned the department the responsibility for enforcing this requirement in areas acquired, maintained, or operated by funds from the Off-Highway Vehicle Fund, which includes all SVRAs. We found that 8 (15 percent) of the 54 vehicles included in our survey of visitors at the State's most popular SVRA, Pismo Dunes, did not have current registrations because the staff used inadequate procedures to enforce the registration requirement for off-highway vehicles. Specifically, the staff did not routinely check vehicle registrations at the entrance or regularly set up checkpoints within the SVRA. The State collects \$20 for every off-highway vehicle registered. From this amount, the California Off-Highway Motor Vehicle Recreation Program (program) receives \$6, the Department of Motor Vehicles receives \$9, the Department of California Highway Patrol receives \$1, and the counties receive \$4. In addition, the program receives 50 percent of all fines and forfeitures collected for violations of regulations, including the registration requirement, and the counties receive the remaining 50 percent. In fiscal year 1988-89, these sources of revenue contributed nearly \$1.2 million to the operation of the program. Therefore, increased compliance resulting from better enforcement of the registration requirement would increase revenues for the program, other state agencies, and the counties.

Registration Requirement State law generally requires the owners of off-highway motor vehicles to register these vehicles with the State. Specifically, Section 38010 of the Vehicle Code states that, with few exceptions, every vehicle not otherwise registered under the code because it is to be used exclusively off the highways shall be registered with the Department of Motor Vehicles as an off-highway vehicle. Furthermore, Section 38020 of the Vehicle Code states that no person shall operate, transport, or leave standing an unregistered off-highway vehicle, unless it is specifically exempt from registration requirements. Finally, Section 5090.33(h) of the Public Resources Code states that the department's Division of Off-Highway Motor Vehicle Recreation (division) is responsible for the enforcement of the laws regulating the use and equipment of off-highway vehicles in areas acquired, maintained, or operated by funds from the Off-Highway Vehicle Fund.

Inadequate Enforcement of Registration Requirement To determine if the department properly enforced the law relating to the registration of off-highway motor vehicles, we visited six sites in California that receive funds from the Off-Highway Vehicle Fund. Four of these sites are operated by federal agencies, which are also required to enforce the State's registration requirements. The remaining two sites, Pismo Dunes and Hollister Hills, are SVRAs operated by the department. In fiscal year 1988-89, according to the department, the Pismo Dunes facility had over 700,000 visitors, more than 54 percent of all of the visitors to the SVRAs for that year. Together with the Hollister Hills facility, these two SVRAs received nearly 60 percent of the visitors to the State's seven SVRAs for this period.

At all six sites, we surveyed a sample of visitors to determine if their off-highway motor vehicles were registered by asking them to show proof of current registration. During our review of Pismo Dunes and Hollister Hills, we found a significant contrast in the number of unregistered vehicles. While we did not find any instances of unregistered vehicles in a sample of 26 off-highway vehicles at the Hollister Hills facility, we found that 8 (15 percent) of the 54 vehicles we surveyed at Pismo Dunes did not have current registrations.

At the four federal sites, we also found instances of unregistered off-highway motor vehicles. The range of unregistered vehicles was from 3 to 23 percent of all vehicles included in our survey of federal facilities. However, three of the four federal facilities had a smaller percentage of unregistered vehicles than Pismo Dunes.

The Influence of Physical Characteristics on Registration Enforcement

The physical characteristics of off-highway recreation areas affect the extent to which enforcement staff can reasonably enforce off-highway motor vehicle laws, including the registration requirement. The four federal lands were generally larger than the SVRAs and had numerous roads leading into them. For example, a federal facility named the Imperial Sand Dunes Recreation Area consisted of over 118,000 acres and had multiple entrances. With such a large area and numerous access points to cover, the federal staff at this facility used random checks during their patrols to review off-highway motor vehicles for compliance with registration and other requirements. These checks entailed both stopping users while they were operating their vehicles and visiting other users during periods of nonoperation, such as breaks. The federal staff also established a checkpoint along a road inside the facility.

Because of significant physical differences among the federal sites, we could not conclude whether the percentage of noncompliance at these sites was acceptable or unacceptable. For example, some of these facilities had designated trails that restricted the movement of the riders of off-highway motor vehicles and made access to riders easier for rangers. In contrast, other facilities had open spaces which provided a larger area for the rangers to patrol. These and other factors may have affected the enforcement efforts at the facilities and, therefore, may explain the variance in the results of our review of them.

By contrast, the two SVRAs were substantially smaller than the federal facilities. According to the department's records, the SVRA at Hollister Hills consists of approximately 5,000 acres and

Pismo Dunes approximately 2,400 acres. The SVRAs were also generally fenced so that the staff could control entry and departure at one point at Hollister Hills and two points at Pismo Dunes. Notwithstanding the possibility for better control over incoming vehicles at the SVRAs, Pismo Dunes had a higher percentage of unregistered off-highway motor vehicles, based on our review, than three of the four federal off-highway areas.

Pismo Dunes

Several factors other than physical characteristics contributed to the incidence of unregistered vehicles at the Pismo Dunes SVRA. While the staff at Hollister Hills routinely checked the registration status of each off-highway motor vehicle at the entry gate, the staff at Pismo Dunes did not always follow this practice even though the two facilities have essentially the same features, such as fences and entry gates. In addition, according to the chief of the division, the staff at the Pismo Dunes facility did not randomly stop off-highway vehicles to review their registration status because the users might have considered these stops unnecessary detentions. The chief stated that the staff did review registrations when there was reasonable cause that the vehicle was not registered, when the staff had stopped the vehicle for a different violation, or when the staff established checkpoints within the facility. However, we noted that at the federal areas, rangers did not have to stop users in order to check registrations. The rangers at the federal off-highway vehicle areas frequently checked registrations during the users' breaks. Further, the chief acknowledged that the Pismo Dunes facility established only one checkpoint on one day in fiscal year 1989-90. A single checkpoint may have been ineffective in identifying unregistered vehicles from among the more than 700,000 visitors to Pismo Dunes in that fiscal year.

Staff Not Required To Review Registration at Entry Gates

According to the division chief, the division does not have a formal policy that requires staff at the SVRAs to review the registration status of each off-highway motor vehicle that enters these facilities. The chief explained that to take extra time to carry out such a policy could cause extreme traffic problems at a facility like Pismo Dunes located close to public streets. According to the chief, the Hollister Hills facility can use this practice because delays do not back up traffic onto the public street. We observed, however, that, while Pismo Dunes is in a more well-traveled area, there was ample space to allow staff to detain users without current registration while permitting other users to enter the facility. Further, on the day of our visit, a Saturday, the lines at the entrances had four or fewer vehicles.

The chief also stated that reviewing registration at the entrance would require sites to post rangers there because, as peace officers, rangers have the authority to issue citations. However, if they are posted at the gates, the chief explained, the rangers would not be available to enforce public safety in the riding areas. We noted, however, that rangers did staff the entry gates at Hollister Hills, while there were only clerks at Pismo Dunes. Although this practice would require some rangers to stay at the entry gates to issue citations, their presence may increase awareness of the registration requirement, as well as other laws relating to the use of off-highway motor vehicles, such as the requirements for safety helmets and spark arresters. Consequently, these efforts may reduce the need to stop riders within the SVRA to inform them of these laws. In those cases when the number of visitors to Pismo Dunes may occasionally limit the staff's ability to review all registrations at the entry gates, they could make exceptions to this practice. Further, in the absence of rangers, the clerks themselves could deny use of the SVRA to users with unregistered vehicles. Such a practice would have a deterrent effect even though the clerk cannot issue citations.

**Effects of
Inadequate
Enforcement**

The State collects \$20 for every off-highway motor vehicle registered. From this amount, the department's program receives \$6, the Department of Motor Vehicles receives \$9, the Department of the California Highway Patrol receives \$1, and the counties receive \$4. In addition, the department receives 50 percent of all fines and forfeitures collected for violations of regulations, including the registration requirement, relating to the use of off-highway vehicles. The counties receive the remaining 50 percent. In fiscal year 1988-89, these sources of revenue contributed nearly \$1.2 million to the operation of the program. Through its enforcement efforts at off-highway facilities, the department can identify and take enforcement action against unregistered vehicles to create more awareness among their owners of the registration requirement. These efforts encourage more owners to comply with this law and, ultimately, to contribute more revenues to the program. Therefore, increased compliance resulting from better enforcement of the registration requirement could increase revenues for the program, other state agencies, and the counties.

Conclusion

State law requires the Department of Parks and Recreation to ensure that only registered off-highway motor vehicles use the State Vehicular Recreation Areas. However, because the department does not regularly review the registration status of off-highway vehicles at entry gates or through checkpoints at the State's most popular SVRA, Pismo Dunes, it permitted 8 (15 percent) of 54 vehicles we reviewed to enter this facility without current registration. By not aggressively enforcing the registration requirement at this facility, the department has been failing to collect potential revenues for the program, other state agencies, and the counties.

Recommendation To improve its enforcement of the registration requirement for off-highway motor vehicles, the Department of Parks and Recreation should develop procedures that direct staff at the State Vehicular Recreation Areas to review the registration status of off-highway vehicles at the entry gates to these facilities, when feasible, at checkpoints established periodically along trails, and during routine patrols of the facilities.

Chapter 2 The Department of Parks and Recreation Has Not Met Mandated Deadlines in Performing and Reporting on Some Requirements of the California Off-Highway Motor Vehicle Recreation Program

Chapter Summary

The Department of Parks and Recreation (department) has not promptly completed all of the tasks and reports required of the California Off-Highway Motor Vehicle Recreation Program (program) by the Off-Highway Motor Vehicle Recreation (OHMVR) Act of 1988 and other state laws. For example, the act required the department by July 1, 1989, to conduct an inventory of wildlife populations and their habitats and to prepare a protection program for the wildlife habitats of each area in the State's system for off-highway motor vehicles. However, the department's contractor completed the inventory six months late and will not complete the plans for the protection programs until one year after the mandated deadline. In addition, a guidebook describing the laws and regulations of the program and a report on the adequacy of existing facilities, both mandated by the Legislature, are several years late, and the biennial report on the status of the program, also mandated by the Legislature, was at least one year late. Although some of the delays can be attributed to problems with contractors, the department's delays in beginning these projects promptly also contributed to the delays. As a result, the department could not provide special attention to some species of plants and animals that might have been identified by the plans for the protection programs, nor has it been able to provide timely information the Legislature might have used for policy decisions on the program.

**Requirement
for Wildlife
Inventory
and Habitat
Protection
Programs
Not Met**

Section 5090.35(b) of the Public Resources Code, as amended by the OHMVR Act of 1988, states, in part, that by July 1, 1989, the department shall make an inventory of wildlife populations and their habitats in each area in the State Vehicular Recreation Area and Trail System. These areas include the seven State Vehicular Recreation Areas (SVRAs) that offer recreational opportunities for off-highway motor vehicles. The code section also states that by the same date the department shall prepare a wildlife habitat protection program to sustain a viable species composition specific to each area.

In October 1988, the department arranged for a contractor to complete these tasks. According to the department, the contractor did not complete the inventory of wildlife populations and their habitats until January 1990, six months after the deadline. In addition, the department stated that, as of August 29, 1990, the contractor had not completed the plans for the protection programs.

Although the contractor was late in meeting its agreement, the department's initial delay in awarding the contract for this project also contributed to its lateness. The act took effect on January 1, 1988, but the department did not award the contract until October 1988, 10 months later. The chief of the department's Division of Off-Highway Motor Vehicle Recreation (division) attributed this delay to two factors. Specifically, the chief stated that the funding for this project was not appropriated until July 1988. In addition, the department decided to expand the scope of the inventory beyond one season. After consulting several professionals from the university and private sectors, staff at the department concluded that an inventory of four seasons, equivalent to one year, would provide a better measure of the wildlife population in the system. Consequently, the department contacted the state senator who authored the code section and requested an extension of the deadline. The senator indicated that he could not change the deadline, but he recommended that the department proceed with its plan to conduct an inventory of four seasons instead of one. He also recommended that the department consider sponsoring legislation to change the deadline from July 1, 1989, to July 1, 1990. However, according to the chief

of the division, the department later decided that sponsoring legislation to change the deadline was not necessary since all of the principal parties involved in drafting the original legislation agreed that a survey of four seasons instead of one was appropriate. Subsequently, the department awarded a contract that provided for the survey of four seasons and a completion date of June 30, 1990, one year after the mandated deadline.

In the contract, the contractor agreed to complete the inventory and to submit the plans for the protection programs by June 30, 1990. According to the department, although the contractor completed the inventory as scheduled, it was able to complete only one of the five plans for the protection programs by the deadline of June 30. In a letter dated June 19, 1990, the contractor informed the department that it would not submit the draft of the plan for the last protection program until early October 1990. In this letter, the contractor attributed the delay in preparing these plans to difficulties in developing statistical programs to analyze data from the inventory.

Based on the contractor's schedule, the department expects to implement the plans for the protection programs for wildlife habitats in April 1991. When complete, the department anticipates that these plans will list the plants and animals identified by the contractor during the inventory of five of the State's seven SVRAs. In addition, the plans will describe the techniques that can be used to monitor changes in the numbers of certain species based, in part, on a comparison to the inventory conducted by the contractor. The plans may also show that certain types of wildlife or plants require special attention. However, the department cannot provide this special attention until it receives the plans. As a result, the department's delay in receiving these plans may threaten some species of plants and animals in the SVRAs.

Other Reporting Requirements Not Met	Section 5090.34 of the Public Resources Code states that the department's division, under the direction of the commission, shall publish a guidebook that describes the laws and regulations of the program and includes maps of areas and trails for the State's system. Although the Legislature did not establish a deadline for the guidebook, the Legislature added this requirement to the code in 1982. As of August 10, 1990, the department did not expect to publish the guidebook until 1991, more than eight years later.
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Chapter 1155, Statutes of 1986, requires the department's commission to prepare a report regarding the adequacy of existing facilities for the use of off-highway vehicles and to make specific recommendations for expanding existing facilities and establishing new facilities where appropriate. The chapter established a deadline of March 1, 1987, for the report. As of August 10, 1990, the department's report on the adequacy of existing facilities for off-highway vehicles was in draft form with no projected publication date. Since this report was due in March 1987, it is over three years late.

Section 5090.24(g) of the Public Resources Code, as amended by the OHMVR Act of 1988, states that the department's Off-Highway Motor Vehicle Recreation Commission (commission) shall report biennially on the status of the program in particular and off-highway motor vehicle recreation in general, on the condition of natural and cultural resources of areas and trails receiving state off-highway motor vehicle funds, and on the resolution of conflicts of use in those areas and trails. The report shall also include a summary of monitoring data compiled and rehabilitative work concluded during the preceding two years. The department issued the biennial report for fiscal years 1985-86 and 1986-87 in June 1990. As with the guidebook, the Legislature did not establish a deadline for this report. However, the department's schedule for this project called for its completion in June 1989, one year earlier.

The department used contractors to prepare the two reports and the guidebook. Some of the problems contributing to the delays include various problems associated with these contractors.

For example, the contractors did not always meet the established deadlines and, in at least two instances, the contractors did not provide satisfactory final drafts.

Although some evidence shows that the contractors contributed to the delays, the department's actions also hampered the completion of the reports. For example, the department was late initiating the contracts for one report and the guidebook. Specifically, the department issued the request for proposal for the report on the adequacy of existing facilities nearly five months after the report was due, and the department issued the request for proposal for the guidebook in January 1988, more than five years after the Legislature requested it. The chief for the division was unable to provide documentation to explain these delays. However, he suggested that the delay in the preparation of the guidebook between 1982 and 1988 may have been due, in part, to the department's emphasis on other aspects of the program, such as the establishment of the commission and the division.

Another factor in the delays was the commission's actions on the contracts for one report and the guidebook. Specifically, for the biennial report, the commission selected a proposal different from the one recommended by the department's evaluation committee. This action delayed the report's preparation by five months because the Department of General Services rejected the commission's selection and later approved the evaluation committee's original choice. The commission also delayed the preparation of the guidebook by five months when it rescinded its acceptance of the bid for this project, an action it attributed to budgetary constraints. Later the commission accepted a lower bid from the same contractor.

The Legislature sometimes sets deadlines for reports because it needs timely information by which to make effective policy decisions on the program. In these instances, without such information, the Legislature is less able to make decisions on certain issues such as increasing or decreasing expenditures on facilities acquisition. For example, in its requirement for the report on the adequacy of existing facilities, the Legislature used

language allowing the statute to take effect immediately as an urgency statute. This action and the mandated deadline of March 1, 1987, may indicate that the Legislature required information at that time on the status of existing facilities. The department's delay in providing this report after three years might have hampered the Legislature's efforts during this time to make effective policy decisions for expanding or establishing facilities for the program.

Conclusion	Provisions in the Off-Highway Motor Vehicle Recreation Act of 1988 required the Department of Parks and Recreation to conduct an inventory of wildlife populations and to develop a protection program for their habitats. The Legislature also required the department to publish a guidebook describing the laws and regulations of the California Off-Highway Motor Vehicle Recreation Program, to write a report on the adequacy of existing facilities, and to provide biennial reports on the status of the program. However, the department's delays in awarding contracts for some of these projects, the Off-Highway Motor Vehicle Recreation Commission's actions on some of them, and the department's problems with the contractors of these projects contributed to delays in accomplishing the work. As a result, the department could not provide special attention to some species of plants and animals that might have been identified by the plans for the protection programs, nor could it provide timely information the Legislature might have used to make policy decisions on the program.
Recommendation	To ensure that it meets mandated deadlines in performing and reporting on all of the requirements of the California Off-Highway Motor Vehicle Recreation Program, the Department of Parks and Recreation and the Off-Highway Motor Vehicle Recreation Commission, when appropriate, should promptly determine whether they are going to issue contracts to accomplish these requirements or whether the department will perform the tasks

itself. Furthermore, if the department and the commission award contracts to accomplish these requirements, the department should ensure that contractors complete the work on time.

Chapter 3 The Department of Parks and Recreation Did Not Maintain Accurate Records of Some Expenditures for Conservation and Enforcement Activities

Chapter Summary

The Department of Parks and Recreation (department) did not maintain accurate records for some expenditures made with funds from the Conservation and Enforcement Services Account (account) from fiscal years 1986-87 through 1988-89. The Public Resources Code requires the department to expend funds from this account only on certain types of conservation and enforcement activities. As part of this requirement, the department must maintain a system that provides effective accounting control over these funds. Although we found that, for a sample of items we tested, the department properly expended these funds or reserved them for expenditure, it did not use its system to properly code some expenditures made through purchase orders. According to the chief for the Division of Off-Highway Motor Vehicle Recreation (division), the department sometimes did not use the system to record all charges for conservation and enforcement activities because staff in the division, including staff at the State Vehicular Recreation Areas (SVRAs), did not always specifically identify by the proper code all expenditures made through purchase orders. Consequently, the department identified and summarized these expenditures later, a less reliable method that caused errors in the recording of expenditures for 5 of 11 purchase orders we sampled.

The Conservation and Enforcement Services Account

Section 8352.8 of the Revenue and Taxation Code established the account as an account within the Off-Highway Vehicle Fund. According to Section 5090.64(a) of the Public Resources Code, the funds in this account shall be expended only for certain types of conservation and enforcement activities on lands in the State's system for off-highway motor vehicles. The law states that the

enforcement activities consist of employing, equipping, and supervising peace officers for the purpose of conserving natural resources and enforcing laws regulating the use of off-highway vehicles. Although this code section does not fully define the conservation activities, Section 5090.10 of the Public Resources Code defines them as activities, practices, and programs that sustain soils, plants, wildlife, and their habitats in accordance with standards established by the department.

The account receives its funding from the gasoline taxes attributable to the operation of off-highway motor vehicles. The Department of Transportation in cooperation with the department determines this amount and transfers it into the account. The State Controller's Office then transfers the account's funds to the Off-Highway Vehicle Fund. Once funds are in the Off-Highway Vehicle Fund, the State Controller's Office does not specifically identify the funds expended or reserved for conservation and enforcement activities; instead, the department must maintain this information with a system of internal accounting and administrative controls. According to Section 13403(a)(3) of the Government Code, a satisfactory system shall include, but shall not be limited to, a system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

The department's division compiled a summary of all of the expenditures from the account for fiscal years 1986-87 through 1988-89. According to this summary, the department expended approximately \$7,351,000 during this period on conservation and enforcement activities. We reviewed a sample of 19 expenditures consisting of 6 contracts and 13 purchase orders, totaling approximately \$1,482,000, more than 20 percent of the total expended during the three-year period. Specifically, we traced these expenditures to supporting documentation to determine whether the department properly expended or reserved these funds for conservation and enforcement activities and properly recorded them as such.

We found that the department used 17 of the 19 expenditures we sampled to obtain services or items clearly classified as conservation or enforcement activities. While the department could not locate the supporting documentation for the remaining 2 expenditures, the items purchased (a truck and communications switching equipment) could have applications for conservation or enforcement.

**Accurate
Records Not
Maintained**

Although we found that the department's division properly expended or reserved funds for conservation and enforcement activities for the items we tested, we also found that it did not maintain accurate records for some of these expenditures. Specifically, it did not identify properly all such expenditures made through purchase orders even though it had a coded tracking system designed to do so. The department has established a system that has the capacity to identify all expenditures, including those made through purchase orders, attributable to conservation and enforcement activities. To ensure that the system records this information, staff must charge these expenditures to a particular code. According to the chief for the division, the department directed staff at the SVRAs to use this coding system to account for conservation and enforcement expenditures made through purchase orders. However, the chief acknowledged that the staff did not always properly code these expenditures.

Because staff did not always properly code expenditures made with funds from the account, the division depended on an accounting clerk outside of the original process to identify and summarize them later, a less reliable method because the clerk might have had to use estimates of expenditures to summarize the account rather than the invoices themselves. We tested the accuracy of this method by comparing the expenditures recorded by the clerk to the actual purchase orders for these expenditures. From this review, we identified errors in the recording of expenditures for 5 of the 11 purchase orders we traced. These 11 purchase orders totaled approximately \$280,900 and represented nearly 68 percent of the amount expended on purchase orders during fiscal years 1986-87 through 1988-89. The five errors, ranging in amounts of approximately \$200 to \$3,100 and resulting in a net error of \$600,

generally represented changes from the estimate to the actual purchase and sales tax that the division did not record. For example, in its account summary the division showed an expenditure of \$88,441 charged to the account to acquire a tractor. However, the purchase order for this item shows a subtotal of \$80,498. With sales tax, we estimate that this item cost the department \$85,328. The difference of approximately \$3,113 represents an unrecorded change from the original purchase estimate to the actual invoice. Although the department may not have incurred any losses as a result of these errors, it needs to maintain accurate information on expenditures made with funds from the account. Otherwise, the department cannot determine the amount available for conservation and enforcement activities, and, thus, will not know how much to spend on these activities.

Conclusion

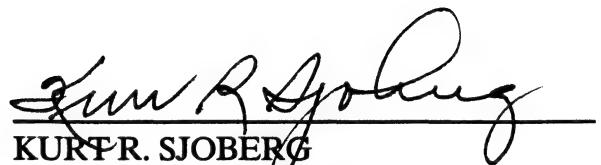
State law requires that departments maintain a satisfactory system of internal accounting and administrative controls over the State's assets and liabilities. To comply with this law, the Department of Parks and Recreation has established a system that identifies by code those activities funded by the Conservation and Enforcement Services Account. However, because staff in the Division of Off-Highway Motor Vehicle Recreation did not always specifically identify with the proper code some expenditures made through purchase orders, the system could not identify the total amount of expenditures made with funds from this account. The department identified and summarized these expenditures later, a less reliable method that caused errors in the recording of expenditures for 5 of the 11 purchase orders we sampled.

Recommendation

To improve the accuracy and reliability of its records of the expenditures made with funds from the Conservation and Enforcement Services Account, the Department of Parks and Recreation should ensure that staff use the existing code system to specifically identify all purchase orders that represent expenditures for conservation and enforcement activities.

We conducted this review under the authority vested in the auditor general by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURTR. SJOBERG
Auditor General (Acting)

Date: December 17, 1990

Staff: Samuel Cochran, Audit Manager
Frank A. Luera
Rosalind McCoy

Appendix Composition of the Off-Highway Motor Vehicle Recreation Commission

The Off-Highway Motor Vehicle Recreation Commission (commission) created by the Off-Highway Motor Vehicle Recreation (OHMVR) Acts of 1982 and 1988 consists of seven members, three appointed by the governor, two appointed by the Senate Committee on Rules, and two appointed by the speaker of the Assembly. These members serve four-year terms that are staggered. Previously, the only qualification established by law for appointment to the commission was that the nominee have the experience and background consistent with the functions, duties, and responsibilities of this body. In the OHMVR Act of 1988, the Legislature amended this qualification to require that place of residence be considered in making appointments to the commission. In addition, the act required nominees to represent one or more of five groups. These qualifications added by the act apply to appointments made on and after January 15, 1988. The following table contains a list of these groups and other information on the current members of the commission. The Legislature intended for the commission to represent all of these groups to the extent possible. As shown in the table, commission members stated that they represent four of the five groups. The one group not represented is soil scientists.

Table A-1**Composition of the Off-Highway
Motor Vehicle Recreation Commission**

Member's Name	Appointment Date	Group Affiliations at Time of Appointment ¹	Appointed By	Place of Residence ²
Hon. Eugene Chappie	February 1987 ³	(c) Rural landowners	Governor	Georgetown
Hon. Paul Golde	February 1989	(a) Off-highway recreation	Senate Committee on Rules	Orange
Hon. Loren L. Lutes, D.D.S.	September 1990	(a) Off-highway recreation (b) Biological scientists (e) Environmental protection	Governor	Pasadena
Hon. Hugh McGuigan	March 1988	(e) Environmental protection	Senate Committee on Rules	Los Molinos
Hon. Betty Morris	July 1985 ³	(a) Off-highway recreation (c) Rural landowners (e) Environmental protection	Governor	San Mateo
Hon. John M. Motley	February 1983 ⁴	(a) Off-highway recreation (c) Rural landowners	Speaker of the Assembly	San Luis Obispo
Hon. Marge Sutton	March 1983 ³	(e) Environmental protection	Speaker of the Assembly	Palo Alto

¹Section 5090.15 of the Public Resources Code states that a nominee, appointed on and after January 15, 1988, to the Off-Highway Motor Vehicle Recreation Commission shall represent one or more of the following groups:

- (a) Off-highway vehicle recreation groups;
- (b) Biological scientists;
- (c) Groups or associations of predominantly rural landowners;
- (d) Soil scientists; and
- (e) Environmental protection organizations.

²All of the places of residence are cities or towns located in California.

³Commission member was reappointed in July 1990.

⁴Commission member was reappointed in January 1988.

Memorandum

To : The Honorable Kurt R. Sjoberg
Acting Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

From : Office of the Secretary

Date : DEC 10 1990

File No.:

Subject: Department of Parks
and Recreation's
Off-Highway Motor
Vehicle Recreation
Audit Report (P-776)

Per your request of December 3, 1990, attached are The Resources Agency comments concerning the report by the Office of the Auditor General (P-776) The Department of Parks and Recreation Can Improve Aspects of the Off-Highway Motor Vehicle Recreation Program.

The Resources Agency agrees with the findings of the report in that the Off-Highway Motor Vehicle Recreation Program is being administered and managed substantially in compliance with the legislation and that the finding of the report will only help to improve the program's administration.

Gordon K. Van Vleck
Gordon K. Van Vleck
Secretary for Resources

Attachment

cc: Henry R. Agonia
Lee J. Chauvet

**AGENCY COMMENTS TO
THE DEPARTMENT OF PARKS AND RECREATION
CAN IMPROVE ASPECTS OF THE OFF-HIGHWAY MOTOR VEHICLE
RECREATION PROGRAM**

The following are comments on each of the findings and recommendations:

I. The Department of Parks and Recreation Can Improve Its Enforcement of Registration Laws for Off-Highway Motor Vehicles

The Department has already taken steps to increase its registration enforcement efforts throughout the Division with emphasis at Pismo Dunes State Vehicular Recreation Area.

While the audit determined that 15% of the off-highway vehicles at Pismo Dunes SVRA were unregistered, this is substantially better than the findings of a recent study. An outside firm, hired by CalTrans to determine the fuel tax attributable to off-highway vehicle recreation, using a random sample of 20,000 households, found that only 15% of the vehicles that should be registered were actually registered. Based on this information, the Department has undertaken a program of increased enforcement efforts on state lands and met with federal agencies to have them agree to increased enforcement. This has been a major item of discussion with the Off-Highway Motor Vehicle Recreation Commission, and at the November 1990 meeting, a complete presentation and discussion of the issue was undertaken.

The Department agrees with the recommendation and will be improving its procedures for registration enforcement.

II. The Department of Parks and Recreation Has Not Met Mandated Deadlines in Performing the Reporting on Some Requirements of the California Off-Highway Motor Vehicle Recreation Program

The Department agrees that it has not met due dates in the past and has begun a revised tracking system to put a high priority on meeting these dates on future reports and studies.

The report details the Department's process for accomplishing the Wildlife Habitat Protection Plans and is critical that the Department did not meet the deadline. The Department's actions were dictated by the fact that a complete study (four seasons were needed) that met the intent and letter of the legislation was more significant than meeting the due date with a product that could not nor would not meet legislative intent.

III. The Department of Parks and Recreation Did Not Maintain Accurate Records of Some Expenditures for Conservation and Enforcement Activities

The Department agrees with the findings of the report and has already implemented to correct the recordkeeping problem.

When the Conservation and Enforcement Account became effective on January 1, 1987, the Division implemented the system to track the expenditures. Upon finding that some of the documents were not correctly coded, the Division hired an account clerk to monitor and track the expenditures. The errors, as pointed out in the report, were a result of trying to reconstruct past expenditures. The Division has been checking all the necessary documents to ensure that this recordkeeping problem will not occur in the future. The report points out that all of the expenditures were appropriate, only that the recordkeeping contained some errors.

We appreciate the constructive comments and intend to implement your recommendations. There is always room for improvement in such a complex program. Further, given the positive comments contained in your scope section, we believe the Department has done an excellent job of meeting the many program objectives while providing for approximately twenty million visitor days of recreation each year.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps